

DHL Corporation and International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, State of Alaska, General Teamsters Local 959,¹ Petitioner. Case 19-RC-10229

February 8, 1982

DECISION AND ORDER

BY CHAIRMAN VAN DE WATER AND
MEMBERS JENKINS AND HUNTER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Norm Hayashi. Following the hearing, and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the case was transferred to the National Labor Relations Board for decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in the case, the Board finds:

The Employer is a California corporation engaged in the transportation by air of mail and of other various time-sensitive commodities such as documents, small parcels, newspapers, electronic parts, and perishable food stuffs, plants, fruits, and vegetables. This transportation is provided both in the State of California and in other States either through the use of the services of another commercial air carrier or through the use of aircrafts owned by the Employer's two wholly owned subsidiaries, DHL Airways, Inc., t/a DHL Airways

and Air Polynesia, Inc., t/a DHL Cargo. The parties stipulated that, during the 12 months preceding the filing of the instant petition, the Employer purchased and received goods valued in excess of \$50,000 directly from suppliers located outside the State of California.

The Employer contends that the petition should be dismissed because jurisdiction is properly with the National Mediation Board under the Railway Labor Act and that the National Labor Relations Board therefore should not exercise jurisdiction. The Petitioner, on the other hand, contends that jurisdiction is properly with the National Labor Relations Board.

Section 2(2) of the Act provides in pertinent part that the term "employer" as used in the National Labor Relations Act should not include any person subject to the Railway Labor Act.

Accordingly, because of the nature of the jurisdictional question presented here, we requested the National Mediation Board to study the record in this case and to determine the applicability of the Railway Labor Act to the Employer. In reply, we were advised by the National Mediation Board that, following its reading of the record, the board had concluded that:

Based upon the nature of the work performed by DHL Corporation and the degree of the integration of its operation with those of DHL Air Cargo and DHL Airlines, the [National Mediation] Board is of the opinion that DHL is a carrier within the scope of Title II of the Railway Labor Act.²

In view of the foregoing, we shall dismiss the instant petition.

ORDER

It is hereby ordered that the petition in Case 19-RC-10229 be, and it hereby is, dismissed.

¹ The name of the Petitioner appears as amended at the hearing.

² *DHL Corporation*, 9 NMB No. 22 (1981).